

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TRELLIAN PTY, LTD.,

Plaintiff,

No. 19-Civ- ____

v.

COMPLAINT

adMARKETPLACE, INC.

Defendant.

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Plaintiff Trellian Pty Ltd. (“Trellian”), for its complaint against defendant adMarketplace, Inc. (“adMarketplace”) alleges as follows:

NATURE OF THE ACTION

1. This is a civil action for breach of contract, unjust enrichment, and account stated. In 2018 and 2019, adMarketplace was the successful bidder for certain direct-to-advertiser domain traffic offered through Trellian’s Direct Search Network platform. In accordance with the parties’ written agreements, adMarketplace accepted these services and agreed to pay all applicable fees and charges as and when invoiced by Trellian. By this action, Trellian seeks payment of its overdue invoices in the total amount of \$747,711.57, plus interest, late charges and attorney’s fees plaintiff incurred in securing its rights under the parties’ agreements.

PARTIES

2. Plaintiff Trellian is a Proprietary Limited Company organized and existing under the laws of Australia. Its principal place of business is 8 East Concourse, Beaumaris, Victoria, Australia.

3. On information and belief, defendant adMarketplace is a corporation organized and existing under the laws of Delaware. Its principal place of business is at 1250 Broadway, 31st Floor, New York, New York, within this judicial District.

JURISDICTION AND VENUE

4. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332, because there is diversity of citizenship between the parties and the amount in controversy exceeds \$75,000 exclusive of costs and interest.

5. The Court has personal jurisdiction over adMarketplace because adMarketplace has its principal place of business in New York, New York.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(1) because adMarketplace's principal place of business is in New York, New York.

FACTUAL BACKGROUND

7. Trellian provides targeted domain name redirect traffic to online advertisers and their agencies. When a user types a domain name (not simply a search term) directly into a browser address bar, Trellian's "Direct Search Network" is configured to redirect that visitor to participating advertisers. This flow of direct search traffic is available for purchase via a real time bidding platform on which advertisers or their agencies bid to buy traffic from Trellian based on keywords, type of search device (mobile or desktop), geographical location, and other relevant identifiers.

8. adMarketplace describes itself as an "end-to-end consumer search platform" that connects client advertisers to searches executed by consumers outside traditional search engine channels. Its clients include large retail brands, airlines, automobile manufacturers and other consumer-facing companies.

9. Beginning in 2013, adMarketplace contracted with Trellian to join the Trellian Direct Search Network, allowing adMarketplace to participate in real time bidding for direct navigation traffic. Under the terms of the parties' agreements, adMarketplace established an account with Trellian and then bid, in real time, for a redirected "feed" of website traffic going to specific domains associated with adMarketplace clients. If adMarketplace emerged as the winning bidder, Trellian accepted the bid, and displayed the ad page for the adMarketplace client. In turn, adMarketplace agreed to pay Trellian the "redirect fees" and "Unique Visitor Fees" that made up the winning adMarketplace bid. These agreed amounts were invoiced by Trellian on a monthly basis.

10. adMarketplace paid all invoiced amounts as and when due up to October 2018. The October 2018 invoice in the amount of \$231,221.03 was only paid in part, leaving an unpaid balance of \$12,635.30. Trellian's invoices for December 2018, January 2019 and February 2019 were received by adMarketplace in the ordinary course, without objection, but never paid. In total, the outstanding amount invoiced and received, without objection, by adMarketplace stands at \$747,711.57, with interest accruing at the agreed rate of 1.5% monthly.

COUNT 1 – BREACH OF CONTRACT

11. By reason of the foregoing, adMarketplace has breached its contractual agreements with Trellian, for which it must answer in damages in an amount no less than \$747,711.57 plus interest, costs and attorney's fees as allowed by contract.

COUNT 2 – UNJUST ENRICHMENT

12. By reason of the foregoing, adMarketplace has been unjustly enriched, to the detriment of Trellian, by taking and applying for its own benefit the products and services provided by Trellian on its Direct Search Network platform. Trellian is therefore entitled to

recover from adMarketplace an amount no less than \$747,711.57 plus interest and costs as allowed by law.

COUNT 3 – ACCOUNT STATED

13. In accordance with the parties' agreements, Trellian issued invoices to adMarketplace reflecting amounts due and owing for the products and services supplied by Trellian. These invoices reflected the full and true account of the parties' transactions. They were received, accepted and retained without objection by adMarketplace, which acknowledged the debt and made partial, but not full payment.

14. As a result, an account has been stated between the parties for which there is a balance due in the amount of \$747,711.57 plus interest, costs and attorney's fees as allowed by contract.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Trellian respectfully requests that this Court:

- (1) enter judgment in plaintiff's favor and award it damages in an amount no less than \$747,711.57 plus interest, costs and attorney's fees as allowed by contract; and
- (2) award such other and further relief as the Court deems just and proper.

New York, New York
June 25, 2019

Respectfully submitted,

CURTIS, MALLET-PREVOST,
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